

Minutes of the State Board of Health December 7, 2005

The Washington State Board of Health (WSBOH) met at the Seattle Airport Hilton & Conference Center in SeaTac, Washington. Dr. Kim Marie Thorburn, WSBOH Chair, called the public meeting to order at 9:02 a.m. and addressed the attendees with the following statement:

“This is a public meeting of the State Board of Health held under provisions of RCW 43.20. Notice of the meeting was provided in accordance with provisions of RCW 34.05, the Administrative Procedures Act. Those members having any conflict of interest on any item coming before the Board will report that conflict with respect to the particular subject under consideration. In case of challenge of any Board members by the public, the Board shall decide the status of the challenged members to participate before considering the substance of the matter.

Copies of all materials supplied to the Board for today’s meeting have been available since close of business last Friday from the Board’s Tumwater office and on its Web site at www.sboh.wa.gov. They are also available today, along with anything else we have received since, at the table in the back of the room. To conserve public funds, we have only made as many copies as we felt would be needed, so we may run out of some particularly popular items. If you do not find a document you need, please ask Desiree Robinson, WSBOH Executive Assistant, or another Board staff person for one.

Our meeting today is open to the public, so please feel free to listen in on informal discussions involving Board members or staff, including any that may occur during breaks or lunch.”

SBOH members present:

Kim Marie Thorburn, MD, MPH, Chair
The Honorable Mike Shelton, Vice Chair
Ed Gray, MD
Maxine Hayes, MD, MPH

Keith Higman
Frankie T. Manning, MN, RN
Mel Tonasket
Karen VanDusen

SBOH members absent:

The Honorable David Crump, PhD
Charles Chu, DPM

State Board of Health Staff present:

Craig McLaughlin, Executive Director
Lonnie Peterson, Public Information Officer
Desiree Robinson, Executive Assistant

Ned Therien, Health Policy Analyst
Tara Wolff, Health Policy Analyst

Guests and Other Participants:

Anthony Anton, WA Restaurant Association
Sofia Aragon, Department of Health
Michelle Davis, Department of Health
Clif Finch, Washington Food Industry
David Gifford, Department of Health
Mike Glass, Department of Health
John Guevarra, Citizen
Warren King, *The Seattle Times*

Nancy Napolilli, Department of Health
Sheila Neier, Department of Health
Dr. Ngozi Oleru, Public Health—Seattle & King County
Kerri Petrin, Department of Health
Brian Peyton, Department of Health
Margaret Rosenfeld, UW/Children’s Hospital
Beth Siemon, Department of Health

John Thompson, Department of Health

Karen White, Centers for Disease Control and
Prevention

APPROVAL OF AGENDA

Motion: Approve December 7, 2005 agenda

Motion/Second: Shelton/Hayes

Approved unanimously

ADOPTION OF NOVEMBER 9, 2005 MEETING MINUTES

Motion: Approve the November 9, 2005 minutes

Motion/Second: Shelton/Manning

Approved unanimously

SBOH ANNOUNCEMENTS AND OTHER BOARD BUSINESS

Craig McLaughlin, WSBOH Executive Director, talked about items of interest to the Board including pandemic flu planning, physical activity guidelines from Public Health—Seattle & King County, a new combination vaccine, an advisory report on illegal methamphetamine lab cleanup and the interactions of various agencies, and monitoring requirements from the Environmental Protection Agency (EPA) for lead in drinking water. He also talked about developments concerning an update to the rule governing the handling of human remains. Tribal members have expressed concern because the rule and a recent law conflict with their funeral practices.

DEPARTMENT OF HEALTH UPDATE

Dr. Maxine Hayes, State Health Officer, said Thursday, December 8 marks the start of the indoor smoking ban in Washington State. She anticipates many people will access the Department of Health's (DOH) Tobacco Quit Line. DOH has suspended West Nile virus monitoring for the season. Dr. Hayes said illnesses from influenza have been low so far this year. Washington has received more than 1 million doses of influenza vaccine. DOH and local businesses have been planning for pandemic flu. Their policies could play a key role in controlling an outbreak. Dr. Hayes said it is crucial for the United States to develop better ways to produce vaccines, including those for seasonal influenza A. She spoke about the 2005–06 Centennial Accord Plan, which will improve tribal relations, especially during public health emergencies.

Dr. Ed Gray, WSBOH Member, asked for clarification regarding enforcement of the new anti-smoking law and wondered what materials were available to educate the public. Brian Peyton, Policy, Legislative, and Constituent Relations Director, DOH, said DOH is working with local government officials to discuss these issues. Dr. Hayes said public health personnel are not responsible for enforcement actions against individual smokers but are responsible for public education. Mr. Peyton said local health jurisdictions (LHJs) would enforce the law differently. Mr. McLaughlin said the Office of the Attorney General is also discussing ways to enforce the rule. He said Tacoma-Pierce County Health Department might be citing violators during food establishment inspections and charging a fee for conducting re-inspections if there is evidence of indoor smoking. Frankie T. Manning, WSBOH Member, suggested that DOH develop anti-smoking educational materials in multiple languages, including Russian and Southeast Asian. Member Gray said he would expect businesses to take a quick and easy approach to pandemic flu planning by stockpiling anti-viral drugs. Dr. Hayes said businesses are addressing the threat by encouraging employees to stay home when ill, which would help control seasonal influenza.

BOARD MEMBER COMMENTS AND CONCERNS

Karen VanDusen, WSBOH Member, said she and Pam Emerson from the EPA would be discussing a tool allowing schools to assess their environmental health and safety conditions. Member Gray said Initiative 36 revolved around re-insurance and that the Office of the Insurance Commissioner would need to be the lead on discussions in which the Board may participate in the future on this topic. Mel Tonasket, WSBOH Member, said he would like the Board to hold a joint meeting with the Washington Health Foundation regarding access to health care. Member Gray suggested that the Board take a position on the loss of mental health care professionals due to funding changes in Spokane County. He would like the Board to encourage Spokane County Commissioners to find interim funding to keep the public mental health system from losing valuable professionals.

Motion: The Board will send a letter to the Board of Spokane County Commissioners encouraging them to find interim funding for public mental health professional positions.

Move/Second: Manning/Gray

Approved unanimously

Member Tonasket said he believes hospitals and other facilities may have a problem regarding the enforcement of the anti-smoking law. Some smokers might have difficulty quitting while they are dealing with other illnesses.

The Board took a break at 10:18 a.m. It reconvened at 10:31 a.m.

INTRODUCTION AND DISCUSSION WITH KAREN WHITE, CDC SENIOR MANAGEMENT OFFICIAL

Chair Thorburn introduced Karen White, Senior Management Official, Centers for Disease Control and Prevention (CDC), and noted Ms. White's bio behind Tab 6. Washington is one of six states currently assigned a CDC Senior Management Official (SMO). Ms. White explained a CDC program called Portfolio Management that would help states and CDC coordinate public health activities. CDC assigns SMOs to interact with public health programs around the country. Ms. White provides oversight for all CDC-funded projects in Washington State. Her position, housed in the DOH Secretary's Office, allows her to better communicate with state personnel and help align program policies. Member Gray complemented CDC, but said he disagrees with its policy on influenza vaccination priorities. He would like CDC to prioritize vaccinations differently, using a public health approach. Ms. White said she would like to discuss this policy issue further after the current flu season. Member Gray said he also is concerned about coordination between CDC and the EPA around issues such as toxic chemical contamination in the Columbia River. He noted that there might be circumstances where environmental cleanup efforts increase health risks. Ms. White said CDC looks at how such contamination may affect people, while the EPA deals with environmental concerns. She is not aware of any specific work that CDC has done on this, but will find out and get back to the Board. The Honorable Mike Shelton, WSBOH Vice Chair, said he is concerned about higher government making decisions that affect local government without first identifying if those decisions fit. He was very happy with the Public Health Improvement Partnership process used by DOH and was encouraged that CDC appeared to be taking a similar approach for its interaction with states.

Member VanDusen asked Ms. White to review the Board's draft strategic plan. She also asked Ms. White how she might be interacting with the UW and other agencies besides DOH. Ms. White said she would be talking to other agencies to make sure CDC funding is being used appropriately. She wants to make sure agencies are not missing opportunities that the funding could provide. Member

Manning asked Ms. White to attend a future Board meeting to update the Board on how Washington's emergency response planning aligns with CDC's priorities.

DRAFT ANNUAL REPORT TEXT—REVIEW AND COMMENT

Lonnie Peterson, WSBOH Staff, called the Board's attention to materials behind Tab 7 regarding the draft *2005 Annual Report*. She asked the Board to review and adopt the draft in concept. Edits provided by the Board will be incorporated into the draft and sent to the Governor's Office for review. The final draft will be approved by Chair Thorburn and sent to the Department of Printing in December. Member VanDusen would like staff to add more history of DOH to the About the State Board of Health section. Keith Higman, WSBOH Member, suggested moving the Environmental Health section to the beginning of the priority projects. He would also like mention of the school environmental health rule. Chair Thorburn said because of local concerns, it was appropriate to move up the Environmental Health section. Member Tonasket asked for statistics regarding the life expectancy of minorities in Washington State to be included in the Ounce of Prevention section. He said this would show the unequal progress public health has made in this area.

Motion: The Board approves in concept the draft text of the 2005 Annual Report as submitted, directs staff to incorporate suggestions from today's discussion as necessary, and authorizes the Chair to approve a final document for publication.

Move/Second: Manning/Shelton

Approved unanimously

MEDIA GUIDELINES POLICY

Chair Thorburn reintroduced Ms. Peterson, who explained the draft media policy behind Tab 8. The Board does not currently have a policy regarding media guidelines. The draft policy 2005-002 defines who must be notified when the Board or its staff is contacted by the media and who should best respond on behalf of the Board.

Motion: The Board adopts policy 2005-002, Media Guidelines: Guidance for news media relations and reporter contacts.

Motion/Second: VanDusen/Manning

Approved unanimously

STATE HEALTH REPORT OUTLINE/UPDATE

Mr. McLaughlin called the Board's attention to the draft outline of the *2006 Washington State Health Report* behind Tab 9. The outline includes a plan to incorporate input from all of the state's health agencies. Member VanDusen said she liked the concept of pulling health partners into development of the report and would like the Board's strategic planning goals included. She also suggested that the arrangement of topics should stress prevention. Member Shelton asked if there was a better way to state the Board's goals for public health capacity. Member Tonasket said simple language, with simple descriptions, would best help influence decision makers. Dr. Hayes said a recently released report on the health of Washington's children is an example of an excellent description of the need for public health. She would like to have a section added to the report co-authored by non-Cabinet leaders such as the Office of Superintendent of Public Instruction. Member VanDusen suggested tying lack of capacity at local health agencies to the difficulties in access, especially for minorities. Member Manning encouraged stressing prevention.

DRAFT POLICY STATEMENT FOR 2005 LEGISLATIVE SESSION

Mr. McLaughlin said the legislative session would open on January 9, 2006. He called the Board's attention to the materials behind Tab 10 and described some of the issues expected in the coming session, including:

- A Puget Sound protection bill.
- Competitive food nutritional standards and a soft drink ban.
- State Board of Education (SBOE) reconfiguration.
- Limitations on distributing sample tobacco products.
- Formation of the Department of Early Learning.
- Liability issues for cities, counties, and retired medical professional volunteers.
- Possible prohibitions on using vaccines with thimerosal for children and pregnant women.
- Health insurance for immigrant children.
- Disposal of electronic waste.
- Funding for pandemic flu preparedness.
- Health disparities.
- Health insurance requirements for workers.
- Cuts in federal health funding.
- Electronic medical records.
- Medical technology assessment.
- Medical professional insurance alternatives.

Mr. Peyton introduced Leslie Emerick, Policy, Legislative, and Constituent Relations Assistant Director, DOH. He said the Governor's budget would not contain increased funding for most programs; however, there may be some special funding for emergency preparedness planning. Several Legislators have interest in establishing a registry of advanced directives. Ms. Emerick discussed a proposal to revise real estate disclosure form items regarding septic tanks.

Member Shelton expressed concern about advocacy groups pushing laws based on emotion, rather than science. Mr. McLaughlin said his draft policy statement was an attempt to address this, but could be improved. Chair Thorburn said the Board is more limited in its ability to comment on legislation than local government organizations. Member Gray said the Board should stay out of the argument supporting mandatory insurance coverage; however, the Board should support preventive services, particularly for children's immunizations through universal coverage by state funding. Chair Thorburn said that although she agreed with Member Gray's concerns, she was reluctant to be non-supportive of efforts that provide health benefits. Member VanDusen asked if any legislation was expected regarding human remains, mold, or tent cities. Member Tonasket described a religion called Seven Drums that is practiced by members of several Washington tribes, including the Yakama Nation, and with which current law and rules might conflict. Mr. McLaughlin said he was working with the Governor's Office to address the tribal concerns about laws and rules regarding human remains handling.

The Board recessed for lunch at 12:37 p.m. and reconvened at 1:34 p.m.

NEWBORN SCREENING FOR CYSTIC FIBROSIS

Chair Thorburn said that in recent years CDC has reported evidence supporting adding cystic fibrosis to the list of conditions that should be part of newborn screening requirements. Tara Wolff,

WSBOH Staff, called the Board's attention to the materials behind Tab 11 and introduced Mike Glass, Director of Newborn Screening Program, DOH. He said DOH had received no comments on the formal proposal for adopting this rule. Dr. Margaret Rosenfeld, UW/Children's Hospital, testified in support of the proposed rule. She described the case of an infant who had severe medical problems because of cystic fibrosis. The infant was not tested for cystic fibrosis as a newborn, even though one of the parents has cystic fibrosis. Dr. Rosenfeld said that many of the infant's medical problems could have been prevented had he been tested as a newborn. Member Manning said that even though the Board's rules do not apply, she would like to encourage military hospitals to provide testing for cystic fibrosis. Mr. Glass said about 3,000 children are born each year in military facilities in Washington and that he is encouraging newborn screening in those facilities. He also commented that the June 2006 implementation date is not dependent on collection of new blood specimens because the DOH laboratory will add the test for the same specimens collected for other newborn screening tests. Therefore, implementation may be able to occur before June.

Motion: The Board adopts the revised Chapter 246-650 WAC as published in WSR 05-22-129.

Motion/Second: Shelton/Higman

Approved unanimously

FOOD RULE IMPLEMENTATION UPDATE

Members Gray and Higman introduced the agenda item about the food rule implementation process. Member Higman provided background and mentioned that when it adopted the rule revision in September 2004, the Board requested that DOH return at a later meeting to report about implementation of the rule. He introduced Ned Therien, WSBOH Staff, who introduced Nancy Napolilli, Director of the Office of Food Safety and Shellfish, DOH. Mr. Therien explained that the rule adopted in 2004 was a major revision to Chapter 246-215 WAC and incorporated the 2001 version of the FDA Food Code, which was the most current addition at that time. Ms. Napolilli talked about food industry concerns regarding consistent implementation of the rule statewide. She said 34 of the 35 local health jurisdictions (LHJ) have adopted the food rule through local processes. She outlined the training DOH has provided and gave examples of informational materials it has created. She said DOH is committed to continuing efforts to provide information and enhance communication with LHJs to promote consistent interpretation and application of rule provisions. She introduced Dr. Ngozi Oleru, Public Health—Seattle & King County. Dr. Oleru said the implementation process has been successful. LHJs have consulted with each other and engaged the Food and Drug Administration regarding standardization of inspections. She said the process of implementing the rule revision has been a lot of work. Inspectors had to learn about and educate food industry members about many changed requirements. The LHJs are committed to a collaborative effort with DOH and industry partners. LHJs are striving for consistent, statewide implementation of the rule.

Clif Finch, Washington Food Industry, provided a handout for the Board. He said the food industry, which represents grocers, has been pleased with the rule implementation process and complemented DOH on its work to help with this. Members of his association are concerned about two LHJs that have added, or may add, requirements beyond those in the statewide rule and administrative provisions adopted by other LHJs. One issue of concern for his members is the special meat cutter license requirement in King County. The other is an anticipated requirement in Thurston County for food workers to have a food worker card before beginning work. These rule additions make it more difficult for the industry to comply. Small grocers have concerns about meeting the provision that

refrigerators hold 41°F. Mr. Finch asked that the Board continue to monitor the implementation of this rule.

Anthony Anton, Washington Restaurant Association, talked about provisions of concern to his members, including the consumer advisory, person in charge, and employee hygiene/no bare hand contact. He said DOH has done a great job anticipating questions and developing clarifications before inconsistencies developed. He said great efforts at educating the food service operators have made implementation go smoothly. He said the provision with which members of the restaurant industry were having the most difficulty is the prohibition on bare hand contact with foods. He said it could be difficult for employees to change gloves quickly between activities in a fast-paced environment. Japanese restaurant operators especially have problems with this provision when making sushi. It is also expensive and the profit margin for the restaurant industry in Washington is the lowest in the country at only 1.8 percent. He said that if restaurants implement good handwashing procedures, some of them should be able to obtain an exemption to the bare hand contact prohibition. He encouraged continued communication between the food industry and the Board. He said consistent interpretation of the rule is very important to his industry and more problems could become evident as LHJs start issuing citations, rather than educating. He said he also hoped that the Board would continue to monitor implementation of this rule.

Member Tonasket asked whether establishments that serve raw oysters on the half shell were having problems meeting the rule. Mr. Anton said he had not heard such concerns. Member Higman thanked the panel and said it was valuable to hear an update on a Board rule after implementation. He said the food code adoption in Island County directly affected his LHJ because it needed to provide more inspector hours to implement the rule. He asked whether businesses with multiple stores were having problems with uniformity between jurisdictions. Mr. Finch said there has been a lower than expected amount of issues; however, citations have not yet been issued during this early stage of implementation of new provisions. Mr. Anton said DOH's reactions and follow-up with the industry have helped identify problems ahead of time and quickly address issues. Member Shelton said uniformity is important for multi-jurisdictional business organizations. He asked whether "mom and pop" operations were supportive of the rule. Mr. Anton said the Restaurant Association provided teleconference meetings to reach those establishments and helped convey information about the new rules to smaller operators. Other than the no bare hand contact issue, he was not hearing many concerns with the rules. Mr. Finch said small grocers are having trouble competing with large grocery chains. The main concern of the small grocers is the requirement that they replace their refrigerators within 5 years if they cannot hold 41°F.

Member VanDusen also thanked the panel and said she was pleased that the rule implementation was going so well. She said the no bare hand contact and 41° refrigeration provisions were from the 2001 FDA Food Code. She asked whether there are provisions within the 2005 version of the FDA Food Code that would change those requirements, or other provisions that would warrant revising the rules again soon. Ms. Napolilli said the DOH Food Safety Program would be discussing the code with partners in spring 2006 and asking whether fine-tuning was needed. She said that a major review of the code would likely not be necessary until after the 2009 FDA Food Code comes out. However, DOH may propose small changes before then. Mr. Anton said the industry welcomed small changes every few years to keep up with science. Chair Thorburn asked whether the no bare hand contact requirement was impractical. Mr. Anton said that in some instances the requirement is impractical. He said the industry thinks a proper handwashing program protects the public's health better than gloves.

The Board took a break at 2:36 p.m. It reconvened at 2:44 p.m.

REPORT ON SCHOOL VISION SCREENING—SUBSTITUTE HOUSE BILL 1951

Ms. Wolff summarized the materials behind Tab 13. She said the 2005 Legislature required DOH to form an expert panel to develop recommendations for vision screening for schoolchildren. She introduced Beth Siemon, Health Services Consultant, DOH, who provided an overview of Substitute House Bill 1951. She explained that the bill required organization of an advisory group to develop interim recommendations by December 2005 and a final report by December 2006. The group has developed a draft interim report to meet the first deadline. It will reconvene in mid 2006. The final recommendations will inform the Board on possible revisions to its existing rules. Dr. Hayes asked for clarification about the six common vision disorders that the work group identified as important for basic screening. Ms. Siemon said that the six disorders are amblyopia, strabismus, refractive error, accommodation of focus, convergence, and eye-hand coordination. Member Tonasket asked what would happen after children have vision screening and problems are identified needing further follow-up. He noted that some families do not have health insurance or the means to pay for corrective care. Ms. Siemon acknowledged that this could be problematic for those families or for those who live in rural communities far away from services. Ms. Siemon said the answers to those questions are not known at this time and said that Kentucky is the only state that not only mandates comprehensive vision exams for children, but also funds complete exams. In Washington, the schools refer the child for comprehensive exams after screening. Member Tonasket indicated that school nurses often play a critical referral role for follow-up care but that in some communities there is a shortage of these providers.

PUBLIC TESTIMONY

No public testimony was given.

RULE MAKING TRAINING

Mr. McLaughlin introduced Michelle Davis, Regulatory Affairs Manager, DOH. She called the Board's attention to materials behind Tab 15, which included a slide show presentation (see slideshow for more information). Member Tonasket asked how long it takes the Office of the Code Reviser to publish documents. Ms. Davis said the Code Reviser publishes in the Washington State Register within two weeks of its semi-monthly filing deadlines. Member VanDusen asked if Board rules require a State Environmental Protection Act (SEPA) analysis. Ms. Davis said she could not recall a Board rule that has required one. Member Shelton asked about public petition requirements and what constitutes a petition. Ms. Davis said one person or a group of people could petition for rule making. Member Higman asked how a person could become part of the rule making process. Ms. Davis said anyone could request to participate. On request, people are added to an interested parties list. In addition, DOH staff try to identify stakeholders. Dr. Hayes complemented Ms. Davis on her good work and asked what had been the most common trigger for rule making. Ms. Davis said that the Governor's Executive Order 97-02 was the major trigger for Board rule revisions in recent years. Mr. McLaughlin said Ms. Davis' office is part of the DOH infrastructure that also supports the Board's activities. He said without the support of this DOH infrastructure, the Board would not be able to function the way it does.

ADJOURNMENT

Chair Thorburn adjourned the meeting at 3:57 p.m.